# Restrictions for
# Thunderbird North
# As amended March 18, 2015

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THE STATE OF TEXAS §
§ KNOW ALL PERSONS BY THESE PRESENTS:
COUNTY OF FORT BEND §

WHEREAS, MACNAUGHTON & CO., TRUSTEE (the "Declarant") was the sole record owner of that certain property known as Thunderbird North, Section One (1), a subdivision in Fort Bend County, Texas according to the map or plat recorded in Volume 14, Page 16 and partially replatted in Volume 16, Page 6 of the Plat Records of Fort Bend County, Texas (the "Property");

WHEREAS, Declarant by that certain instrument entitled "Restrictions" filed of record in Volume 661, Page 336 *et seq*. of the Deed Records of Fort Bend County, Texas (the "Restrictions"), imposed on the Property all those certain covenants, conditions, restrictions, and easements set forth therein;

WHEREAS, Paragraph 34 of the Restrictions entitled "**Amendment to the Above Deed Restrictions**" provides:

The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

WHEREAS, Section 209.0041(h) of the Texas Property Code ("Code") provides: a declaration may be amended only by a vote of sixty-seven percent (67%) of the total votes allocated to property owners in the property owners association unless the declaration contains a lower percentage, in which case the lower percentage controls;

WHEREAS, the amendment to the Restrictions set forth herein ("First Amendment") has been approved by the members of Thunderbird North Community Association, Inc. ("Association") entitled to cast at least sixty-seven percent (67%) of the votes in the Association, as evidenced by the votes attached hereto and incorporated herein for all purposes as Exhibit "A" (Exhibit "A").

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1. Single Family Residential Construction

   No Building shall be erected, altered or permitted to remain on any lot other than one detached single family residential dwelling not to exceed two and one-half (2 ½) stories in height and a private garage for not less than two (2) nor more than three (3) cars and bona fide servants' quarters which structures shall not exceed the main dwelling in height or number or number of stories and which structure may be occupied only by a member of the family occupying the main residence on a building site or by domestic servants employed on the premises.

2. Architectural Control

   No building or improvements of any character shall be erected or placed or the erection begun, or changes made in the design thereof after original construction on any lot until the construction plans and specifications and a plot plan showing the location of the structure or improvements have been submitted to and approved by the Architectural Control Committee ("ACC") appointed (and removed) by the Board of Directors of the Association ("Board") (or the Board itself as it changes from time-to-time, if no such Committee has been appointed) as to compliance with their restrictions, as to quality of material, harmony of external design with existing and proposed structures and as to location with respect to topography and finish grade elevations. In the event the Committee (or Board) fails to approve or disapprove within thirty (30) days after the receipt of the required documents, approval will not be required and the related covenants set out herein shall be deemed to have been fully satisfied. The Board may also adopt (and amend) architectural guidelines. Such guidelines shall have the same force and effect as if stated in these Restrictions, once filed of record in the Official Public Records of Real Property of Fort Bend County Texas.

3. Minimum Square Footage Within Improvements

   The living area of the main structure exclusive of open porches and garages shall not be less than Twelve Hundred (1,200) square feet.

4. Location of the Improvements Upon the Lot

   No building shall be located on any lot nearer to the front line or nearer to the street side line than the minimum building setback line shown on the recorded Plat. No building shall be located on any lot nearer than ten (10) feet to any side street line. The main residential structure (exclusive of detached garages and out buildings) shall be located no less than fifteen (15) feet from the rear property line. Subject to the provisions of Paragraph 5, no part of the house building shall be located nearer than five (5) feet to an interior lot line. A garage or other permitted accessory building located seventy (70) feet or more from the front lot line may be a minimum distance of three (3) feet from an interior lot line. For the purposes of this covenant caves, steps and unroofed terraces shall not be considered as part of a building provided, however, that this shall not be construed to permit any portion of the construction on a lot to encroach upon another lot.

5. Composite Building Site

Any owner of one or more adjoining lots or portions thereof may consolidate such lots or portions into one building site with the privilege of placing or constructing improvements on such resulting site in which case setback lines shall be measured from the resulting side property lines rather than from the lot lines as indicated on the recorded plat. Any such composite building site must have a frontage at the building setback line of not less than the minimum frontage of the lots in the same block.

6. Utility Easements

Easements for installation and maintenance of utilities are reserved as shown and provided for on the recorded plat and no structure shall be erected upon any of said easements. Neither MacNaughton & Co., Trustee, or any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees or servants, to shrubbery, trees, flowers or improvements of the owner located on the land covered by said easements.

7. Prohibition of Offensive Activities

No activity, whether for profit or not, shall be conducted on any lot which is not related to single family residential purposes. No noxious or offensive activity of any sort shall be permitted nor shall anything be done on any lot which may be or become an annoyance or a nuisance to the neighborhood. By way of example, but not limitation, no activity will be permitted which shall be deemed a nuisance either by sight, sound or smell by residents in the area, e.g., business which would increase traffic and/or block driveways or mailboxes; loud noises to include stereos, audio devices (of any type), and dogs barking for an unreasonable length of time; odors from animals, garbage, or trash; or the slaughter of animals.

8. Use of Temporary Structures

No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence. Temporary structures used as building offices and for other related purposes during the construction period must be inconspicuous and sightly.

9. Storage of Automobiles, Boats, Trailers and Other Vehicles

A. Passenger Vehicles. Except as provided in subparagraph B below, no Owner, lessee, or occupant of a lot, including all persons who reside with such Owner, lessee or occupant on the lot (for the purposes of this Section all hereinafter defined as an "Occupant"), shall park, keep or store any vehicle on any lot which vehicles are visible from any street in the Property ("Street(s)") or any neighboring lot other than passenger vehicles or pick-up trucks. Provided, however, Occupants may only park such passenger vehicles and pick-up trucks on the Streets so that they are never parked on Streets in excess of three (3) days (or any portion thereof) in any seven (7) day period of time. For the purposes of these restrictions, the term "passenger vehicle" is limited to any vehicle which displays a passenger vehicle license plate issued by the State of Texas or which, if displaying a license plate issued by another state, would be eligible to obtain a passenger vehicle license plate from the State of Texas, a passenger van and a sport

utility vehicle used as a family vehicle (whether or not the sport utility vehicle displays a passenger or truck vehicle license plate); the term "pick-up truck" is limited to one-ton capacity pick-up. Except as provided below, any vehicle used for commercial purposes cannot be parked on the Streets but must be parked in the driveway of the Occupant's lot. "Commercial vehicle" as used in this Section is defined as any vehicle displaying company logo, signs or equipment such as ladder racks, tools, compressors, welding machines, or any other equipment that is used for commercial use. Contractors that are performing work on a lot may park in the Street during performance of their work; otherwise contractors may not park on the Streets. No vehicle of any kind shall be parked on any sidewalk, unpaved portion of a lot or on any grass. No inoperable vehicle shall be parked, kept or stored on a lot if visible from any Street or any neighboring lot. For the purposes of this Section, a vehicle shall be deemed to be inoperable if (a) it does not display all current and necessary licenses and permits, (b) it does not have fully inflated tires, (c) it is on a jack, blocks or the like, or (d) it is otherwise incapable of being legally operated on a public street or right-of-way.

B. Other Vehicles. No mobile home trailer, utility trailer, recreational vehicle, boat or the like shall be parked, kept or stored on any street in the Property or on any portion of a lot if visible from any street in the Property or any neighboring lot in excess of three (3) days (or any portion thereof) in any seven (7) day period of time**.** A mobile home trailer, utility trailer, recreational vehicle, boat or the like may be parked in the garage on a lot or in some other structure approved by the ACC out of public view.

C. Vehicle Repairs. No passenger vehicle, pick-up truck, mobile home trailer, utility trailer, recreational vehicle, boat or other vehicle of any kind shall be constructed or reconstructed on a lot within the Property if visible from any street in the Property or any neighboring lot. Only normal maintenance (oil change, tire changes, repairs of brakes, etc.) is permitted as long as the work is completed within a twenty-four (24) hour period.

10. Mineral Operations

No oil drilling, oil development operations, oil refining, quarrying or mining operation of any kind shall be permitted upon or in any lot, nor shall any wells, tanks, tunnels, mineral excavation, or shafts be permitted upon or in any lot. No derrick or other structures designed for the use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

11. Animal Husbandry

No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except that dogs, cats or other common household pets may be kept provided that they are not kept, bred or maintained for commercial purposes.

12. Walls, Fences and Hedges

No walls, fence or hedge in excess of three (3) feet shall be erected or maintained nearer to the front lot line than the walls of the dwelling existing on such lot. No side or rear fence, wall or hedge shall be

more than six (6) feet high. Any wall, fence or hedge erected as a protective screening on a lot by MacNaughton & co., Trustee, shall pass ownership with title to the property and it shall be owner's responsibility to maintain said protective screening thereafter.

13. Visual Obstructions at the Intersections of Public Streets

No object or thing which obstructs site lines at elevations between two (2) feet and six (6) feet above the roadways within the triangular area formed by the intersecting street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street property lines or extensions thereof shall be placed, planted or permitted to remain on any corner lots.

14. Lot Maintenance

Residents whether they be Owners, lessees, or other occupants of a lot are required to keep the lot in a neat, healthful, sanitary and attractive manner. This is to include all areas of the lot which are visible from the street and those areas not visible (such as the back yard and property lines which run into Mustang Bayou and the American Canal). Lots must be kept in such a manner so as not to allow overgrown yards to become a breeding ground for snakes, rats and insects. Additionally, the following restrictions govern lots:

A. Lawns – Lawns should be mowed so as not to exceed a maximum height of six inches (6") between mowings. Lawns should also be free of obvious weeds.

B. Flower Beds – Flower beds when observed from the street should be free of obvious weeds, debris and grasses other than the ornamental varieties.

C. Curbs, Sidewalks, Driveways, etc. – Curbs, sidewalks, driveways, etc., must be edged so grass does not grow to more than a maximum of two inches (2") to three inches (3") over the cement. Weeds should be pulled along the curb and in the center of the driveway.

D. Trimming – Grass and weeds should be trimmed around trees, foundations, fences, landscape borders, lamp and mailbox posts, etc., so as not to exceed six inches (6").

E. Shrubs – Shrubs must be trimmed periodically in a neat and uniform manner. All dead trees and shrubs must be removed.

F. Easements – Easements along the bayou are the responsibility of the Owner, lessee or occupant of the lot and must be mowed and maintained in the same manner as the rest of the lot. No resident shall dispose of any debris or household garbage on the easement or in the canal or bayou.

G. Clotheslines, Woodpiles, Storage, Trash Cans – The drying of clothes outdoors, woodpiles, storage piles or trash cans must be screened from public view. Discarded appliances, machinery, inoperable vehicles are not considered to be a part of normal residential requirements and are therefore prohibited.

H. Houses – Houses must be kept in good repair. This includes, but is not limited to garage doors being in good repair, windows not being broken, gutters not hanging down from the house, paint not peeling or fading, shutters fixed securely to the house and having no broken slats, and all exposed wood having no signs of dry-rot. Other conditions that are not stated above will be addressed by the Board on an individual basis.

I. Basketball Goals – Basketball goals must be in proper working order. A basketball goal must have no broken backboard, bent rim or leaning pole.

J. Mailboxes – Mailbox poles must stand straight and not lean over. All damaged mailboxes should be replaced. Mailboxes must conform to the U.S. Postal regulations.

K. Fences – Fences must be in good repair. This means that the fence stands straight and does not lean over, have graffiti exposed to public view or does not have missing pickets.

In the event of default on the part of the Owner or occupant of any lot in observing the above requirements or any such default continuing after ten (10) days' written notice thereof the Association or its assignee shall without liability to the Owner or occupant in trespass or otherwise enter upon said lot and cut or cause to be cut such weeds and grass and remove or cause to be removed such garbage, trash and rubbish or do any other thing necessary to secure compliance with these restrictions so as to place said lot in a neat, attractive and sanitary condition and may charge the Owner or occupant of such lot for the cost of such work. The Owner or occupant, as the case may be agrees by the purchase or occupation of the property to pay such statement immediately upon receipt thereof, which charges shall also be retained in the Association's lien in Paragraph 21 of the Restrictions.

15. Signs, Advertisements, Billboards

Except for signs owned by Builders advertising their model parks during the period of original home constructions and home sales, no sign, advertisement or billboard or advertising structure of any kind other than a normal "For Sale" sign may be erected or maintained on any lot in said subdivision. MacNaughton & Co., Trustee, or its assignee will have the right to remove any such sign, advertisement or billboard or structure which is placed on said lot and in so doing shall not be subject to any liability of trespass or other sort in the connection therewith or arising with such removal.

16. Roofing Material

The roof of any building shall be constructed or covered with (1) asphalt or composition type shingles comparable in quality, weight and color to wood shingles, the decision of such comparison shall rest exclusively with the ACC or (2) crushed marble slag or pea gravel set in a built-up type roof. Any other type roofing material shall be permitted only at the sole discretion of the ACC upon written request.

Additionally, Section 202.011 of the Texas Property Code provides that a property owners' association may not enforce a provision in a dedicatory instrument that prohibits or restricts a property Owner from installing

shingles that are designed to:

 be wind and hail resistant; provide heating and cooling efficiencies greater than those provided by customary composition shingles; or provide solar generation capabilities; and

 when installed: resemble the shingles used or otherwise authorized for use on lot in the Property; are more durable than and are of equal or superior quality to the shingles described below; and match the aesthetics of the property surrounding the Owner's lot. ("storm and energy efficient shingles")

(a) ACC Approval. In order to confirm the proposed storm and energy efficient shingles conform to this Paragraph 16, Owners are encouraged to apply to the ACC for prior approval. The Association may require an Owner to remove storm and energy efficient shingles that do not comply with this Paragraph 16.

(b) Appearance. When installed, storm and energy efficient shingles must resemble, be more durable than, and be of equal or superior quality to the types of shingles otherwise required or authorized for use in Property as set forth above. In addition, the storm or energy efficient shingles must match the aesthetics of the lots surrounding the lot in question.

17. Antennas, Satellite Dishes and Masts

No exterior antennas, aerials, satellite dishes, or other apparatus for the reception of television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any lot, which are visible from any street, common area or another lot, unless it is impossible to receive an acceptable quality signal from any other location. In that event, the receiving device may be placed in the least visible location where reception of an acceptable quality signal is possible. The Board of Directors may require painting or screening of the receiving device, which painting or screening does not substantially interfere with an acceptable quality signal. In no event are the following devices permitted: (i) satellite dishes, which are larger than one (1) meter in diameter; (ii) broadcast antenna masts, which exceed the height of the center ridge of the roofline; or (iii) MMDS antenna masts, which exceed the height of twelve feet (12') above the center ridge of the roofline. No exterior antennas, aerials, satellite dishes, or other apparatus shall be permitted, placed, allowed or maintained upon any lot, which transmit television, radio, satellite or other signals of any kind. This section is intended to be in compliance with the Telecommunications Act of 1996 (the "Act"), as the Act may be amended from time to time; this section shall be interpreted to be as restrictive as possible, while not violating the Act. The Board of Directors may promulgate architectural guidelines, which further define, restrict or elaborate on the placement and screening of receiving devices and masts, provided such architectural guidelines are in compliance with the Telecommunications Act.

18. Sidewalks

Before the dwelling unit is completed and occupied, the lot owner shall construct a concrete sidewalk four (4) feet in width parallel to the street curb two (2) feet from the lot boundary line and shall extend into the

projection of the lot boundary lines into the street right-of-way and/or street curbs at corner lots. Owners of corner lots shall install a sidewalk parallel to the front lot line and the side street lot line.

19. Underground Electric Service

"An underground electric distribution system will be installed in that part of Thunderbird North Subdivision, designated herein as underground Residential Subdivision, which underground service area embraces all of the lots which are platted in Thunderbird North subdivision, at the execution of this agreement between Company and Developer or thereafter. In the event that there are constructed within the Underground Residential Subdivision structures containing multiple dwelling units such as townhouses, duplexes or apartments, then the underground service area embraces all of the swelling units involved. The owner of each lot containing a single dwelling unit, or in the case of a multiple dwelling unit structure, the Owner/Developer, shall, at his or its own cost, furnish, install, own and maintain (all in accordance with the requirements of local governing authorities and the National Electrical Code) the underground service cable and appurtenances from the point of electric company's metering at the structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, such point of attachment to be made available by the electric company at a point designated by such company at the property line of each lots. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. Developer has either by designation non the plat of the Subdivision or by separate instrument granted necessary easements to the electric company providing for the installation, maintenance and operation of its electric distribution system and has also granted to the various homeowners reciprocal easements providing for access to the area occupied by and centered on the service wires of the various homeowners to permit installation, repair and maintenance of each homeowner's owned and installed service wires. In addition, the owner of each lot containing a single dwelling unit, or in the case of a multiple dwelling unit structure the Owner/Developer, shall at his or its own cost, furnish, install, own and maintain a meter loop (in accordance with the then current Standards and Specifications of the electric company furhishing service) for the location and installation of the meter of such electric company for each dwelling unit involved. For so long as underground service is maintained in the Underground Residential Subdivision, the electric service to each dwelling unit therein shall be underground, uniform in character and exclusively of the type known as single phase, 240/120 volt, three wire, 60 cycle, alternating current.

"The electric company has installed the underground electric distribution system in the Underground Residential Subdivision at no cost to Developer (except for certain conduits, where applicable, and except as hereinafter provided) upon Developer's representation that the Underground Residential Subdivision is being developed for residential dwelling units, including homes, and if permitted by the restrictions applicable to such subdivision, townhouses, duplexes and apartment structures, all of which are designed to be permanently located where originally constructed (such category of swelling units expressly to exclude mobile homes) which are built for rent and all of which multiple dwelling unit structures are wired so as to provide for separate metering to each swelling unit. Should the plans of the developer or the lot owners in the Underground Residential Subdivision be changed so as to permit the erection therein of one or more mobile homes, Company shall not be obligated to provide electric service to any such mobile homes unless (a) Developer has paid to the Company an amount representing the excess in cost, for the entire Underground Residential Subdivision, of the underground distribution system over the cost of the equivalent overhead facilities to serve such Subdivision or (b) the Owner of each affected lot, or the applicant for service to any mobile

home, shall pay to the Company the sum of (1) $1.75 per front lot foot, it having been agreed that such amount reasonably represents the excess in cost of the underground distribution system to serve such lot or dwelling unit over the cost of equivalent overhead facilities to serve such lot or dwelling unit, plus (2) the cost of rearranging, and adding any electric facilities serving such lot, which arrangement and/or addition is determined by Company to be necessary.

"The provisions of the two preceding paragraphs also apply to any future residential development in Reserve (s) shown on the plat of Thunderbird Subdivision, as such plat exists at the execution of the agreement for underground electric service between the electric company and Developer or thereafter. Specifically, but not by way of limitation, if a lot owner in a former Reserve undertakes some action which would have invoked the above per from lot foot payment if such action had been undertaken in the Underground Residential Subdivision, such owner or applicant for service shall pay the electric company $1.75 per front lot foot, unless Developer has paid the electric company as above described. The provisions of the two preceding paragraphs do not apply to any future non-residential development in such Reserve (s).

20. The Thunderbird North Community Association, Inc.

Definitions:

(a) "Association" shall mean and refer to Thunderbird North Community Association, Inc., its successors and assigns. The Association has the power to collect and disburse those maintenance assessments as described in Paragraph 21.

(b) "Owner" shall mean and refer to the record owner, whether one or more persons and entitles of a fee simple title to any lot which is a part of the properties including contract sellers but excluding those having such interests merely as security for the performance of an obligation.

(c) "Properties" shall mean and refer to that certain real property hereinbefore described and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

(d) "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners. Common Area improvements will consist of swimming pool, bath house, play-ground area, and a minimum of two Tennis Courts. The common Area to be owned by the Association at the time of conveyance of the first lot is Reserve "C" of Thunderbird North as per Plat recorded in Volume 14, Page 16, Map or Plat Records of Fort Bend County, Texas.

(e) "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of the Common Area and Reserves.

(f) "Declarant" shall mean and refer to MacNaughton & Co., Trustee their successors and assigns if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.

21. Maintenance Assessments

MacNaughton & Co., Trustee, impose on each lot owned within the properties and hereby covenants and each owner of any lot by acceptance of a deed thereof whether or not it shall be so expressed in such

deed is deemed to covenant and agree to pay to the association the following: (1) Annual Assessments or charges to be established and collected as hereinafter provided, (2) Special assessments for capital improvements. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them. Appropriate recitations in the deed coveying each lot will evidence the retention of a vendor' lien by MacNaughton & Co.,
Trustee, for the purpose of securing payment of said charge assigned to the Thunderbird North community Association, Inc. without recourse on MacNaughton & Co., Trustee, in any manner for the payment of said charge and indebtedness.

22. Purpose of Assessments

The assessments levied by the Association shall be used for the improvement and maintenance of the Common Area and such other purposes of the Association as set forth in the Association's Articles of Incorporation or as allowed by law, as determined by the Board from time-to-time. Provided, however, any capital expenditure that exceeds $25,000.00 must be approved by the members of the Association in accordance with the procedure set forth in Paragraph 24 for the approval of special assessments.

23. Maximum Annual Assessment

Until January 1, 2016, the maximum annual assessment shall be One Hundred Seventy Five Dollars and 00/100 ($175.00) per lot. Thereafter, the Board may increase the annual assessment once every three (3) years, but no more than a maximum of six percent (6%) ("Allowed Increase"), as the needs of the Property may, in its judgment, require. The three (3) year period shall commence anew the year after as Allowed Increase has been approved by the Board. Should the Board determine an increase in the annual assessment larger than the Allowed Increase is needed, the members of the Association must approve such an increase in accordance with the procedure set forth in Paragraph 24 for the approval of special assessments. Provided, however, the proposed increase must be supported by a proposed budget for the upcoming year and be posted in the notices of at least three (3) meetings of the Board, prior to the final vote of the Board to submit the proposed increase to a vote of the members, and in the Association's newsletter prior to the final vote of the Board at said third meeting of the Board. Additionally, the Board shall allow members of the Association to address the Board at each of the three (3) required meetings of the Board.

24. Special Assessments for Capital Improvements

In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are

voting in person or by proxy at a meeting duly called for this purpose.

25. Owner's Easement of Enjoyment

Every owner shall have a right and easement of enjoyment in and to the common area which shall be appurtenant to and shall pass with the title to every lot subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area.

(b) The right of the Association to suspend the voting rights and the right to use of the recreation facility by an owner for any period during which any assessment against his lot remains unpaid; and for a period not to exceed sixty (60) days for each infraction of its published rules and regulations.

(c) The right of the Association to dedicate to transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of the members agreeing to such dedication or transfer has been recorded.

(d) The right of the association to collect and disburse those funds as set forth in Paragraph 21.

26. Delegation of Use

Any owner may delegate in accordance with the by-Laws his right of enjoyment to the Common Area and facilities to the members of his family, his tenants or contract purchasers who reside on the property.

27. Membership and Voting Right

Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment. The Association shall have two classes of voting membership:

Class "A". Class "A" members shall be all owners with the exception of MacNaughton & Co., Trustee and shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote of such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to a lot.

Class "B". Class "B " members shall be MacNaughton & Co., Trustee, or its successors or assigns should acquire more than one undeveloped lot from MacNaughton & Co., Trustee, for the purpose of development. Class "B" members shall be entitled to three votes for each lot owned. The Class "B" membership shall cease and be converted to Class "A" membership on the happening of either of the following events, whichever occurs earlier: (1) When the total votes outstanding in Class "A" membership equal the total votes outstanding in Class "B" membership including duly annexed area, but subject to further cessation in accordance with the limitations set forth in this paragraph; or (2) on January lst of 1980.

MacNaughton & Co., Trustee, hereby agrees to assign its rights to approve or disapprove plans and specification, location of structures, construction contracts and all other documents or approvals required to be submitted to it to the Thunderbird North Community Association, Inc., when either of the conditions (1) or (2) above occur.

28. Rate of Assessment

All lots in Thunderbird North shall commence to bear their applicable maintenance fund assessment simultaneously and lots owned by MacNaughton &co., Trustee are not exempt from assessment. Lots which are occupied by residents shall be subject to annual assessment determined by the Board of Directors (According to Paragraphs 24 and 29). Lots which are not occupied by a resident and which are owned by MacNaughton & Co., Trustee, a builder, a building company, a Mortgage company or a Bank shall be assessed at the rate of one-half (1/2) of the annual assessment above. The rate of assessment for an individual lot, within a calendar year, can change as the character of ownership and the status of occupancy by a resident change. The applicable assessment for such a lot shall be prorated according to the rate required of each type of ownership.

29. Date of Commencement of Annual Assessments

Due Dates. The Board of Directors shall fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due date shall be January 1st of each year, but Owners have the option to pay the annual assessment in two (2) equal installments: (i) the first on or before January 1st of each year; and (ii) the second on or before July 1st of each year. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid.

30. Effect of Non-Payment of Assessments

Remedies of the Association. Any assessment or portion thereof not paid within thirty (30) days after the due dates shall bear interest from the due date at the rate of ten percent (10%) per annum. The Association may bring an action at law against the Owner personally obliged to pay the same or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his lot.

31. Subordination of Lien

The vendor's lien, reserved herein as security for the payment of the annual and special assessments set out herein, shall be subject, subordinate, inferior and secondary to all liens, mortgages and

encumbrances, whether now or hereafter existing, and (i) given to secure the payment of the purchase price of all or any part of the real property (or any improvements thereon), comprising Thunderbird North, a subdivision in Fort Bend County, Texas, or (ii) given to secure the payment of all amounts due or to become due under and by virtue of any contract, now or hereafter executed, for the construction, addition or repair of any improvements now or hereafter situated upon all or any part of the real property comprising Thunderbird North, a subdivision in Fort Bend County, Texas.

The giving of thirty (30) days written notice to the holders of all out- standing indebtedness secured by a lien, mortgage or encumbrance made superior hereby of any proposed proceeding (judicial or otherwise) shall be a condition precedent to any such enforcement. The Notice herein required shall be sent by registered or certified main, return receipt requested, with all postage prepaid to said holders and shall include a statement of the assessments the nonpayment of which is the basis of said proposed proceeding.

The sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability of any assessments thereafter becoming due or from the lien thereof.

32. Enforcement

The Association or any owner shall have the right to enforce by any proceeding at law or in equity all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of these deed restrictions. Failure by the Association or by any owner to enforce any covenant or restriction herein shall in no event be deemed a waiver of the right to do so thereafter.

33. Severability

Invalidation of any one of these covenants or restrictions by judgement or court order shall in no wise affect any other provision which shall remain in full force and effect.

34. Amendment to the Above Deed Restrictions

The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended at any time by a vote of not less than sixty-seven percent (67%) of the members of the Association. The vote may be taken at a meeting of the members or by canvassing the Property. In the event that there are multiple Owners of a lot, the written approval of an amendment to this Declaration may be reflected by the signature or vote of a single Co-Owner. Any amendment and the votes (consents) of members approving same must be recorded in the Official Public Records of Real Property of Fort Bend County, Texas.

35. Books and Records

The members of the Association shall have the right to inspect the books and records of the Association at reasonable times for any proper purpose during normal business hours, in accordance with the Association's Open Records Policy adopted in accordance with Section 209.005 of the Texas Property Code.

36. FHA/VA

As long as there is a Class "B" membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of common ares, and amendment of this Declaration of Covenants, Conditions and Restrictions.

37. Annexation

Additional residential property and common area may be annexed to the properties with the consent of two-thirds (2/3) of each class of membership. However, upon the submission and approval by FHA and VA of a general plan of the entire development, and upon the subsequent approval of each stage of development, such additional stages may be annexed by the Board of Directors without obtaining homeowner's consent. Annual assessments for annexed areas should commence as to all lots on the first day of the month following conveyance of the first property to an owner-occupant. It also shall be a condition precedent to the provisions of this paragraph becoming in any way effective and enforceable, that appropriate reference to this paragraph be made in the restrictive covenants imposed upon any such additional section thereby adopting the provisions of this instrument to the end that the restrictions and maintenance charge imposed on all sections be construed and administered collectively and in harmony with each other.

38. Window Treatments

Aluminum foil and reflective window treatments are expressly prohibited. Window treatments must be maintained in good condition and must be removed or replaced if they become stained, torn, damaged, or otherwise unsightly.

39. Air Conditioners

No window, roof or wall type air conditioner that is visible from any street in the Association shall be used, placed or maintained on or in any house, garage or other improvement.

40. Burglar Bars

The use of wrought iron ornamentation or burglar bars on the exterior of any window or other

fenestration is prohibited.

41. Exterior Colors

The color(s) of paint and color impregnation proposed to be used on the exterior of the home or other improvement on a lot should be compatible with colors commonly used on the exteriors of homes and improvements in the Property. The ACC has oversight responsibility should any question arise or complaint be filed. Exterior colors shall be generally limited to those colors used on homes and other improvements at the time of original construction. The purpose of this covenant is to maintain harmony of the exterior paint colors of homes and other improvements throughout the Property. Iridescent colors or tones considered to be brilliant are not permitted. For the purpose of this paragraph, "brilliant" means a color that is not in the general texture of both the overall community and natural setting of the Property.

42. Rain Barrels and Rain Harvesting Systems

Section 202.007 of the Texas Property Code provides that a property owners' association may not enforce a provision in a dedicatory instrument that prohibits or restricts a property Owner from installing rain barrels or a rain harvesting system on the property Owner's lot. However, Section 202.007 of the Texas Property Code further provides that a property owners' association is not required to permit a rain barrel or rainwater harvesting system to be installed on a lot in particular circumstances or restricted from regulating rain barrels and rain harvesting devices in specified manners. The following provisions shall be applicable to rain barrels and rain harvesting systems in the Property:

(a) ACC Approval. In order to confirm the proposed rain barrel or rain harvesting device is in compliance with this Paragraph 42, Owners are encouraged to apply to the ACC for prior approval. The Association may require an Owner to remove a rain barrel or rain harvesting device that is not in compliance.
(b) Location. A rain barrel or rain harvesting system is not permitted on a lot between the front of the home on the lot and an adjacent street.
(c) Color and Display. A rain barrel or rain harvesting system is not permitted:
    (i) unless the color of the rain barrel or rain harvesting system is consistent with the color scheme of the home on the Owner's lot; or
    (ii) if the rain barrel or rain harvesting system displays any language or other content that is not typically displayed by the rain barrel or rain harvesting system as it is manufactured.
(d) Regulations if Visible. If a rain barrel or rain harvesting system is located on the side of the home on the lot or at any other location on the lot that is visible from a street, another lot, or common area, the rain barrel or rain harvesting system must comply with the following regulations:

. (i) Rain Barrel:

(1) Size: A maximum height of forty-two (42) inches and a maximum capacity of fifty (50) gallons.

(2) Type: A rain barrel that has the appearance of an authentic barrel and is either entirely

round or has a flat back to fit flush against a wall. A rain barrel must have a manufactured top or cap to prevent or deter the breeding of mosquitoes.

(3) Materials: Wood, metal, polyethylene or plastic resin designed to look like an authentic barrel in brown or other earthtone color.

(4) Screening: The rain barrel must be screened with evergreen landscaping to minimize its visibility from a street, another lot, and common area, unless otherwise approved in writing by the ACC.

(5) Downspout: The downspout which provides water to the rain barrel must be the same color and material as the gutters on the home. Further, the downspout must be vertical and attached to the wall against which the rain barrel is located.

(ii) Rain Harvesting System: A rain harvesting system must collect and store the water underground. The portion of a rain harvesting system that is above-ground must appear to be a landscape or water feature. The above-ground portion of the rain harvesting system shall not extend above the surface of the ground by more than thirty-six (36) inches. The above-ground portion of the rain harvesting system must be screened with evergreen landscaping to minimize visibility from a street, another lot, and common area, unless otherwise approved in writing by the ACC.

Provided that, the regulations in this Paragraph 42 shall be applicable only to the extent that they do not prohibit the economic installation of the rain barrel or rain harvesting system on the lot and there is a reasonably sufficient area on the lot in which to install the rain barrel or rain harvesting system.

43. Solar Energy Devices

Section 202.010 of the Texas Property Code provides that a property owners' association may not enforce a provision in a dedicatory instrument that prohibits or restricts a property Owner from installing a solar energy device except as otherwise provided therein. As used in Section 202.010 of the Texas Property Code, "solar energy device" has the meaning assigned by Section 171.107 of the Tax Code, which defines the term as "a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar generated power". The term includes a mechanical or chemical device that has the ability to store solar-generated energy for use in heating or cooling or in the production of power. The following provisions shall be applicable to solar energy devices in Property:

. (a) ACC Approval. The installation of a solar energy device requires the prior written approval of the ACC. Provided that, the ACC may not withhold approval if the provisions of this Paragraph 43 are met or exceeded, unless the ACC determines in writing that placement of the device as proposed constitutes a condition that substantially interferes with the use and enjoyment of land by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities. The written approval of the proposed placement of the device by all Owners of property adjoining the lot in question constitutes

prima facie evidence that substantial interference does not exist.

. (b) Location. A solar energy device is not permitted anywhere on a lot except on the roof of the home or other permitted structure on the lot or in a fenced yard or patio within the lot.

. (c) Devices Mounted on a Roof. A solar energy device mounted on the roof of the home or other permitted structure on a lot:

. (i) shall not extend higher than or beyond the roofline;

. (ii) shall conform to the slope of the roof and have a top edge that is parallel to the roofline;

. (iii) shall have frames, support brackets and/or visible piping or wiring that are silver, bronze or black tone, as commonly available in the marketplace; and

. (iv) shall be located on the roof as designated by the ACC unless an alternate location increases the estimated annual energy production of the device by more than ten percent (10%) above the energy production of the device if located in the area designated by the ACC. For determining estimated annual energy production, the parties shall use a publicly available modeling tool provided by the National Renewable Energy Laboratory.

. (d) Visibility. A solar energy device located in a fenced yard or patio shall not be taller than or extend above the fence enclosing the yard or patio.

. (e) Warranties. A solar energy device shall not be installed on a lot in a manner that voids material warranties.

(f) Limitations. A solar energy device is not permitted on a lot if, as adjudicated by a court, it threatens the public health or safety or violates a law.

44. Flags

Section 202.011 of the Texas Property Code provides that a property owners' association may not enforce a provision in a dedicatory instrument that prohibits, restricts, or has the effect of prohibiting or restricting a flag of the United States of America, the flag of the State of Texas, or an official or replica flag of any branch of the United States armed forces, except as otherwise provided therein.

. (a) The following provisions shall be applicable to flagpoles and the three (3) types of flags listed in Section 202.011 of the Texas Property Code:

. (i) ACC Approval. Proposed flagpoles, flagpole stands and/or footings and illumination must be

approved by the ACC. The Association may require an Owner to remove flagpoles, flagpole footings, or flags that do not comply with this Paragraph 44.

. (ii) Flag of the United States. The flag of the United States must be displayed in ACC in accordance with applicable provisions of 4 U.S.C. Sections 5- 10, which address, among other things, the time and occasions for display, the position and manner of display, and respect for the flag.

. (iii) Flag of the State of Texas. The flag of the State of Texas must be displayed in accordance with applicable provisions of Chapter 3100 of the Texas Government Code, which address, among other things, the orientation of the flag on a flagpole or flagstaff, the display of the flag with the flag of the United States, and the display of the flag outdoors.

. (b) Flagpoles.

. (i) Not more than one (1) freestanding flagpole or flagpole attached to the home or garage (on a permanent or temporary basis) is permitted on a lot.

. (ii) A freestanding flagpole shall not exceed twenty (20) feet in height, measured from the ground to the highest point of the flagpole.

. (iii) A flagpole attached to the home or garage shall not exceed six (6) feet in length.

. (iv) A flagpole, whether freestanding or attached to the home or garage, must be constructed of permanent, long-lasting materials with a finish appropriate to materials used in the construction of the flagpole and harmonious with the home on the lot on which it is located.

. (v) A flagpole shall not be located in an easement or encroach into an easement.

. (vi) A freestanding flagpole shall not be located nearer to a property line of the lot than the applicable setbacks as either shown on the recorded plat or as set forth in the Restrictions. Provided a freestanding flagpole may be located up to ten feet (10') in front of the front building setback line for a lot, if any above-ground stands and/or footings are approved in accordance with this Paragraph.

. (vii) A flagpole must be maintained in good condition; a deteriorated or structurally unsafe flagpole must be repaired, replaced or removed.

(viii) An Owner is prohibited from locating a flagpole on property owned or maintained by the Association.

(xiv) A freestanding flagpole must be installed in accordance with the manufacturer's guidelines and specifications.

(x) If the footing and/or stand for a freestanding flagpole extends above the surface of the ground, the Board may require the installation of landscaping to screen the stand and/or footing from view.

(c) Flags.

. (i) Only the three (3) types of flags addressed in this Paragraph shall be displayed on a freestanding flagpole. Other types of flags may be displayed on a wall-mounted flagpole as otherwise provided in architectural guidelines adopted by the ACC or as otherwise permitted by the Association.

. (ii) Not more than two (2) of the permitted types of flags shall be displayed on a flagpole at any given time.

. (iii) The maximum dimensions of a displayed flag on a freestanding flagpole that is less than fifteen (15) feet in height or on a flagpole attached to the home or garage shall be three (3) feet by five (5) feet.

. (iv) The maximum dimensions of a displayed flag on a freestanding flagpole that is fifteen (15) feet in height or greater is four (4) feet by six (6) feet.

(v) A displayed flag must be maintained in good condition; a deteriorated flag must be replaced or removed.

(vi) A flag must be displayed on a flagpole. A flag shall not be attached to the wall of the home or other structure on a lot or a tree, or be displayed in a window of the home or other structure on a lot.

. 45. Religious Items

Section 202.018 of the Texas Property Code provides that a property owners' association may not enforce or adopt a restrictive covenant that prohibits a property Owner or resident from displaying or affixing on the entry to the Owner's or resident's dwelling one or more religious items, the display of which is motivated by the Owner's or resident's sincere religious belief, except as otherwise provided therein. Section 202.001(4) of the Texas Property Code defines "restrictive covenant" to mean any covenant, condition, or restriction contained in a dedicatory instrument. The following provisions shall be applicable to the display of religious items in Property:

. (a) ACC Approval. As authorized by the Restrictions and, therefore, allowed by Section 202.018(c) of the Texas Property Code, any alteration to the entry door or door frame must first be approved by the ACC.

. (b) Location. Except as otherwise provided in this Paragraph, a religious item is not permitted anywhere on a lot except on the entry door or door frame of the home. A religious item shall not extend past the

outer edge of the door frame.

. (c) Size. The religious item(s), individually or in combination with each other religious item displayed or affixed on the entry door or door frame, shall not have a total size of greater than twenty-five (25) square inches.

. (d) Content. A religious item shall not contain language, graphics, or any display that is patently offensive to persons of ordinary sensibilities.

. (f) Limitation. A religious item shall not be displayed or affixed on an entry door or door frame if it threatens the public health or safety or violates a law.

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. (g) Color of Entry Door and Door Frame. An Owner or resident is not permitted to use a color for an entry door or door frame of frame that is not authorized by the ACC.

(h) Other. Notwithstanding the above provisions: (i) the ACC shall have the authority to allow a religious statue, such as by way of example and not in limitation, a statue of St. Francis of Assisi or other religious item in a landscape bed or other portion of a lot, and (ii) this Paragraph shall not prohibit or apply to temporary seasonal decorations related to religious holidays.

46. Xeriscape Landscaping

Section 202.007 of the Texas Property Code provides that a property owners' association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from using drought-resistant landscaping or water-conserving natural turf except as otherwise provided therein.

The following provisions shall be applicable to drought-resistant landscaping or water-conserving natural turf on lots in Property:

. (a) ACC Approval. The installation of drought-resistant landscaping and water-conserving natural turf requires the prior written approval of the ACC.

. (b) Criteria. A proposed installation of drought-resistant landscaping and water-conserving natural turf shall be reviewed by the ACC to ensure, to the extent practicable, maximum aesthetic compatibility with other landscaping in the Property.

. (c) General Requirements. Full green lawns (turf) are, as a general rule, required in the front yard space and the space along the side of the home on a lot not enclosed by a fence. If a deviation from the general requirement is allowed, non-turf areas must be decomposed granite, hardwood mulch, crushed limestone, flagstone, or loose stone material as approved by the ACC. Concrete surfaces are limited to

driveways and sidewalks. Non- turf materials may not be used in an area between a sidewalk and an adjacent street as the material is likely to wash out onto the street. The area within a particular lot that may be non-turf shall be determined by the ACC; the non-turf area may vary from lot to lot depending upon the size and configuration of the lot and the objective of preserving maximum aesthetic compatibility with other landscaping in the Property.

47. Grandfather Clause/Nonconformities

Any lot, improvement, or use of a lot in violation of this First Amendment as of the date this First Amendment is filed of record in the Official Public Records of Real Property of Fort Bend County, Texas ("Effective Date") will be considered nonconforming ("Nonconformities"). Nonconformities that are in compliance with the Restrictions are grandfathered and may continue in legal existence and be properly maintained until the lot upon which the Nonconformities exist is sold to an Owner other than the current Owner, on the Effective Date, at which time the Nonconformities must be removed (prior to the conveyance of the nonconforming lot). Nonconformities lose their legal status and are no longer grandfathered at such times as the Nonconformities come into compliance with the Restrictions and this First Amendment, and thereafter, Nonconformities must cease and may not resume. The Board in its sole discretion may determine whether Nonconformities ever existed or have ceased to exist.